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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,053

12/30/2003

Martin J. Dowling

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7396

24374

7590

03/20/2006

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EXAMINER

GARY, ERIKA A

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/749,053

Applicant(s)

DOWLING, MARTIN J.

Examiner

Erika A. Gary

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 7-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Somoza et al., US Patent Number 6,336,035 (hereinafter Somoza).

Regarding claims 1 and 4, Somoza discloses a mobile wireless monitoring device comprising: an antenna for receiving signals from a monitored source; a channel quality measurement device for measuring a channel quality of the received signals; a location determining device for determining locations of the mobile wireless monitoring device; and a processor for storing the channel quality measurements and a location for the channel quality measurements using the determined locations [col. 2: lines 59-62; col. 8: lines 37-57; col. 9: lines 7-9; col. 5: lines 19-30, 54-62]

Regarding claims 2 and 5, Somoza discloses the channel quality measurements include received signal strength, interference and Doppler shift [col. 8: lines 48-50]

Regarding claims 3 and 6, Somoza suggests the mobile wireless monitoring device does not utilize outer loop power control when measuring the received signal strength [col. 8: lines 42-44].

3. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Garceran et al., US Patent Number 6,522,888 (hereinafter Garceran).

Regarding claims 1 and 4, Garceran discloses a mobile wireless monitoring device comprising: an antenna for receiving signals from a monitored source; a channel quality measurement device for measuring a channel quality of the received signals; a location determining device for determining locations of the mobile wireless monitoring device; and a processor for storing the channel quality measurements and a location for the channel quality measurements using the determined locations [col. 2: lines 7-42; col. 3: lines 15-32; col. 6: lines 32-58]

Regarding claims 2 and 5, Garceran discloses the channel quality measurements include received signal strength, interference and Doppler shift [col. 4: lines 8-20]

Regarding claims 3 and 6, Garceran suggests the mobile wireless monitoring device does not utilize outer loop power control when measuring the received signal strength [col. 4: lines 15-20].

### ***Response to Arguments***

4. Applicant's arguments filed January 23, 2006 have been fully considered but they are not persuasive. Regarding claims 1 and 4, Applicant argues that Somoza does not

teach a "channel quality measurement device for measuring a channel quality of received signals. The Examiner respectfully disagrees as the communication device takes these measurements [col. 8: lines 4-10, 41-44; col. 5: lines 19-30, 54-62].

Applicant also argues that Somoza does not teach a "location determining device for determining locations of the mobile wireless monitoring device. The Examiner respectfully disagrees as Somoza teaches GPS hardware [col. 8: lines 37-39]. Further, Somoza does in fact teach a mobile wireless monitoring device [col. 5: lines 27-29].

Regarding claims 2 and 5, Applicant argues that Somoza does not teach that the channel quality measurements include received signal strength, interference and Doppler shift. However, the Examiner respectfully disagrees as Somoza teaches that the readings include "latitude, longitude, signal strength interference, power, and noise reduction" at different locations along the route [col. 8: lines 44-50]. It is inherent in the art that Doppler shift is a function of the signal and the speed traveled and can therefore be determined from the readings taken. Regarding claims 3 and 6, Applicant argues that the mobile wireless monitoring device does not use outer loop power control when measuring the received signal strength. Since Somoza does not disclose that it does use outer loop power control, it is suggested that it does not use it. Therefore, Somoza reads on the claimed limitation.

Regarding claims 1 and 4, Applicant argues that Garceran does not teach a "channel quality measurement device for measuring a channel quality of received signals. The Examiner respectfully disagrees as Garceran clearly teaches this limitation. Garceran teaches "signal quality measurements....made at the wireless unit"

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[col. 3: lines 15-22]. Regarding claims 2 and 5, Applicant argues that Garceran does not teach that the channel quality measurements include received signal strength, interference and Doppler shift. However, the Examiner respectfully disagrees as Garceran teaches signal quality measurements including RSSI, direction, speed, etc [col. 4: lines 8-20, 49-56]. It is inherent in the art that Doppler shift is a function of the signal and the speed traveled and can therefore be determined from the readings taken and interference is calculated by comparing signal levels. Regarding claims 3 and 6, Applicant argues that the mobile wireless monitoring device does not use outer loop power control when measuring the received signal strength. Since Garceran does not disclose that it does use outer loop power control, it is suggested that it does not use it. Therefore, Garceran reads on the claimed limitation.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG  
March 16, 2006

  
ERIKA A. GARY  
PRIMARY EXAMINEE